

LONDON FISCHER LLP  
Attorneys for Defendant  
NILT, INC.,  
59 Maiden Lane  
New York, New York 10038  
(212) 972-1000

MATTHEW K. FINKELSTEIN (MKF- 6029)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

YVETTE FAULKNER

Plaintiff,

-against-

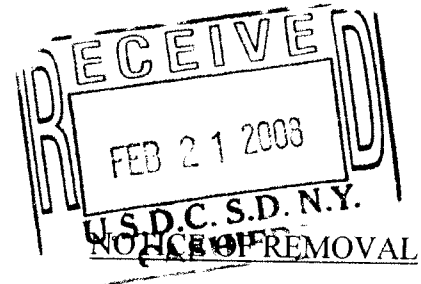
JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE and  
NILT, INC., a/k/a NISSAN INFINITI LT.,

Defendants.

**TO: THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Pursuant to 28 U.S.C. §§ 1441 and 1446 et seq., defendant NILT, INC., a/k/a NISSAN INFINITI LT., (“NILT”) respectfully removes to this Court the within action, which was commenced in the Supreme Court of the State of New York, County of Bronx, under Index Number 15704/07. As grounds for removal, NILT, by its attorneys, London Fischer LLP, respectfully states:

1. Plaintiff commenced this action by purchasing an index number in the Supreme Court of the State of New York, County of Bronx. On October 9, 2007, NILT was served with a Supplemental Summons and Complaint. Copies of the Supplemental Summons and Verified Complaint are annexed hereto as Exhibit "A." The Verified Complaint asserts causes of action by



Civil Case No:

YVETTE FAULKNER sounding in negligence, and plaintiff seeks damages “in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein”. See Exhibit “A”. NILT further states that the case as alleged in plaintiff’s Summons and Verified Complaint is not removable because the pleading fails to state the amount in controversy. See Exhibit “A.”

2. On or about November 1, 2007 NILT interposed an Answer to the Complaint. A copy of the Answer is annexed hereto as Exhibit “B”.

3. On or about December 3, 2007, Defendant JEAN PIERRE JUDES, (“JUDES”) served an Amended Verified Answer to the Amended Verified Complaint. A copy of the Amended Answer is Annexed hereto as Exhibit “C”.<sup>1</sup>

4. This is a civil action in which the United States District Court has original jurisdiction by reason of the diversity of citizenship of the parties pursuant to 28 U.S.C. § 1332. The Verified Amended Complaint indicates that plaintiff is a citizen of the State of New York, and resides in Bronx County. See Exhibit “A”.

5. At the time of the service of the Summons and Verified Complaint, defendant NILT was, and still is, a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business at 333 Commerce Street, Nashville, TN 37201.

6. According to the Summons, defendant JEAN PIERRE JUDES is a citizen of the State of Connecticut. See Exhibit “A”.

7. Defendant further states that it first received notice of this lawsuit from Corporation Service Company after the Summons and Complaint was served upon NILT.

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<sup>1</sup> This is the only pleading from JUDES which has been served upon Nilt.

8. Concurrently with the service of its Answer, NILT served a Demand Pursuant to CPLR 3017(c) for plaintiff to serve a Supplemental Demand setting forth the total damages to which the plaintiff allegedly is entitled to recover. A copy of the Demand is annexed as Exhibit "D".

9. On February 4, 2008, defendant NILT received plaintiff's Response to Supplemental Demand for Relief. A copy of the response is annexed hereto as Exhibit "E".

10. As stated in plaintiff's Response, the amount in controversy in this action is "Five Million Dollars (\$5,000,000)," an amount greater than \$75,000, which is required for diversity jurisdiction.

11. This Notice of Removal is filed within 30 days of receipt of Notice from plaintiff that diversity jurisdiction exists in this action. Accordingly, this action may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441.

12. On January 17, 2008, a Preliminary Conference was held. A copy of the Preliminary Conference Order is annexed hereto as Exhibit "F".

13. The documents annexed hereto constitute "all process, pleadings and orders" known to have been served upon Defendant and by Defendant in the aforesaid action, within the meaning of 28 U.S.C. § 1446(a).

14. A written notice of the filing of this Notice of Removal will be served upon all adverse parties as required by 28 U.S.C. § 1446(d).

15. A copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Bronx, as provided by 28 U.S.C. § 1446(d).

16. Pursuant to Rule 11 of the Federal Rules of Civil Procedure, the undersigned counsel certifies that she has read the foregoing Notice of Removal, that, to the best

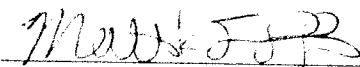
of her knowledge, information and belief formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, NILT prays that this action be removed to the United States District Court, Southern District of New York.

Dated: New York, New York  
February 20, 2008

LONDON FISCHER LLP

By:

  
Matthew K. Finkelstein (6029)  
Attorneys for Defendant  
NILT, INC., sued incorrectly  
herein as NILT, INC. a/k/a  
NISSAN INFINITI LT.  
59 Maiden Lane  
New York, New York 10038  
(212) 972-1000

To: Steven C. Falkoff, Esq.  
Rosenberg, Minc, Falkoff & Wolff, LLP  
Attorneys for Plaintiff  
YVETTE FAULKNER  
122 East 42<sup>nd</sup> Street, Suite 3800  
New York, New York 10168-0068

Andrea L. Cru. Esq.  
LAW OFFICE OF MARY A. BJORK  
Attorney for Defendants  
JEAN PIERRE JUDES, a/k/a  
JUDE-PIERRE  
Executive Boulevard, 3<sup>rd</sup> Floor  
Younkers, New York 10701  
(914) 966-5058



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NO. 4163. P. 7/15/011

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

YVETTE FAULKNER

*Plaintiff.*

against

JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE,  
and NILT, INC., a/k/a NISSAN INFINITI LT.

*Defendants.*

Index No: 15704/07

Filed On: 5/29/07

Re-filed on: 9/26/07

**SUPPLEMENTAL  
SUMMONS**

Plaintiff designate  
Bronx County as the  
place of trial.

The basis of venue is the  
residence of plaintiff and  
the place of the within  
occurrence.

Plaintiff resides at  
215 Alexander Ave.  
Bronx, New York 10454

To the above named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to  
serve a copy of your answer, or, if the complaint is not served with this summons, to serve a  
notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this  
summons, exclusive of the day of service (or within 30 days after the service is complete if this  
summons is not personally delivered to you with the State of New York); and in case of your  
failure to appear or answer, judgment will be taken against you by default for the relief  
demanded in the complaint.

Dated: New York, New York,  
September 25, 2007.

KERNER & KERNER

By:

Richard A. Kerner  
Attorneys for Plaintiff  
Office & P.O. Address  
74 Trinity Place  
New York, NY 10006  
(212) 964-1098

Defendant's address:

117 Maple Avenue  
Stamford, Connecticut 06902

385-9072

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NO. 4163 P. 8/15/011

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

YVETTE FAULKNER,

*Plaintiff,*

-against-

JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE and  
NILT, INC., a/k/a NISSAN INFINITI LT,*Defendants.***AMENDED  
VERIFIED COMPLAINT**

Plaintiff, YVETTE FAULKNER, by her attorneys, KERNER & KERNER, complaining of the defendants, JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE and NILT, INC., a/k/a NISSAN INFINITI LT, upon information and belief, respectfully set forth and allege:

1. That at all times hereinafter mentioned, plaintiff YVETTE FAULKNER was and still is a resident of the Borough and County of Bronx, City and State of New York.
2. That at all times hereinafter mentioned plaintiff YVETTE FAULKNER was an operator of a certain motor vehicle.
3. That at all times hereinafter mentioned defendant NILT, INC. (hereinafter "NILT"), also known as NISSAN INFINITI LT was and still is a corporation organized and existing under and by virtue of the laws of the State of Delaware and authorized as a foreign business corporation to do business by and in the State of New York.
4. That at all times hereinafter mentioned NILT was the owner of a certain motor vehicle bearing 2007 Connecticut license plate number 221UPM.
5. That at all times hereinafter mentioned, defendant JEAN-PIERRE JUDES, a/k/a JUDE JEAN-PIERRE (hereinafter "JEAN-PIERRE"), was the operator of the said motor vehicle, owned by co-defendant NILT.

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DKI, on the grounds  
that the pleadings  
are sufficient  
identifying information  
to permit the  
defendant to plead  
otherwise.

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NO. 4163 P. 9/15/011

6. That at all times hereinafter mentioned the said motor vehicle owned by defendant NILT was operated by co-defendant JEAN-PIERRE with the permission and consent of the said owner thereof.

7. That at all times hereinafter mentioned, the Bruckner Expressway, in the vicinity of Lafayette Avenue, in the Borough and County of Bronx, City and State of New York, were and still are public highways for use by members of the public for purposes of traveling and transportation.

8. That on or about the 1st day of May, 2007, at approximately 2:10 P.M., while plaintiff YVETTE FAULKNER and defendant JEAN-PIERRE, was so operating his motor vehicle, as aforesaid, on the Bruckner Expressway, in the vicinity of Lafayette Avenue, in the Borough and County of Bronx, City and State of New York, the said defendant did come into contact with, strike and/or collide with each other, as a result of which plaintiff YVETTE FAULKNER was precipitated in the aforesaid vehicle in which she was an occupant, causing said plaintiff to sustain severe and serious injuries as more fully hereinafter set forth.

9. That the said occurrence and resulting injuries to plaintiff YVETTE FAULKNER were caused in no way by the negligence of said plaintiff, but wholly and solely by reason of the negligence of the defendants, in that the said motor vehicle of defendant was operated and controlled in a careless, reckless and dangerous manner; in that defendant JEAN-PIERRE did operate his aforesaid motor vehicle at a high, excessive and unlawful rate of speed; under the circumstances, and did fail and neglect to exercise reasonable care in the premises or to properly control said motor vehicle; in that said defendant did fail and neglect to take notice of the motor vehicle of said plaintiff, or to give any signal or warning of his approach, or to stop, slow down or otherwise control said motor vehicle so as to prevent damages and injuries to others in other motor vehicles, of which class said plaintiff were members; in that said defendant did fail and neglect to observe the proper flow of traffic at the place of the occurrence, in that said defendant failed to keep a proper lookout; in that said defendant did violate the applicable laws, statutes, ordinances, rules and regulations relating to safe driving in the City and State of



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New York; in that said defendant did operate the aforesaid motor vehicle with defective brakes, braking devices, steering mechanisms and/or other safety appliances, equipped or required to be equipped on said motor vehicles; in that said defendant did not have the said motor vehicle under proper control at the time and place of the within occurrence; in that defendants' motor vehicle struck the plaintiff's motor vehicle in the rear; in that defendants were negligent under the doctrine of res ipsa loquitur, and that said defendants were otherwise careless and negligent under all of the circumstances.

10. That the accident and injuries occasioned to plaintiff YVETTE FAULKNER resulting therefrom, were caused solely by the negligence on the part of defendants, without any negligence on the part of plaintiff contributing thereto.

11. That solely as a result of the aforesaid negligence of defendants, plaintiff YVETTE FAULKNER was personally injured and suffered serious injuries as defined in Section 5102(d) of the Insurance Law of the State of New York ("Comprehensive Automobile Insurance Reparations Act") and the applicable New York laws pertaining thereto.

12. That as a result of the foregoing, plaintiff YVETTE FAULKNER suffered, and will continue to suffer, basic economic loss, as well as other economic losses and special damages.

13. That as a result of the foregoing, plaintiff YVETTE FAULKNER was injured both internally and externally, and that she became sick, sore, lame, and disabled and so remains, and upon information and belief, that her injuries are and will be permanent and progressive in their nature, and competently caused aftereffects; and that plaintiff did and still continues to have pain and to suffer from the injuries sustained by her, and was hospitalized and did and will continue to receive hospital and medical treatment and attention, all in an endeavor to cure herself of the injuries sustained herein, and that money was and will necessarily continue to be spent and obligations incurred for hospitalization, medical and nursing aid and attention, all in an endeavor to cure or alleviate her suffering.

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14. That this action falls within one or more of the exceptions set forth in CPLR 1602.

15. That as a result of the foregoing, plaintiff YVETTE FAULKNER sustained damages in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein.

WHEREFORE, plaintiff YVETTE FAULKNER demands judgment against defendants JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE, and NILT, INC., a/k/a NISSAN INFINITI ES, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein, all together with the costs and disbursements of this action.

KERNER & KERNER

By:

Richard A. Kerner  
Attorneys for Plaintiff  
Office & P.O. Address  
74 Trinity Place, Suite 1402  
New York, New York 10006  
(212) 964-1098

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ATTORNEY'S VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

Richard A. Kerner, an attorney, duly admitted to practice law before the Courts of the State of New York, under penalties of perjury, affirms:

1. I am associated with the attorneys for the plaintiff in the above referenced matter and as such am fully familiar with all of the facts and circumstances hereinafter set forth.

2. I have read the annexed Amended Complaint in the within matter and know the contents thereof to be true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon books, records, documents, papers, etc. contained within my file herein.

3. The reason I make this affirmation instead of plaintiff is because plaintiff resides outside of the county where your affiant maintains his office.

Dated: New York, New York,  
September 25, 2007.



Richard A. Kerner

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NO. 4163 P. 13/15<sup>011</sup>

ALL-STATE LEGAL  
07181-01-07-03-04-05-06-07-08-09-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-12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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
YVETTE FAULKNER,

Index No.: 15704/07

Plaintiff,

-against-

JEAN PIERRE JUDES, a/k/a JUDE JEAN-  
PIERRE and NILT, INC., a/k/a NISSAN  
INFINITI LT.,

VERIFIED ANSWER  
TO THE AMENDED  
VERIFIED COMPLAINT

Defendants.  
-----X

C O U N S E L:

Defendant, NILT, INC., sued incorrectly herein as "NILT, INC. a/k/a NISSAN INFINITI LT." ("NILT"), by its attorneys, LONDON FISCHER LLP, as and for its Answer to the Amended Verified Complaint, alleges upon information and belief, as follows:

1. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "1", "2", and "7" of the Amended Verified Complaint.
2. Admits each and every allegation contained in paragraph "3" of the Amended Verified Complaint.
3. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "4", "5", and "6" of the Amended Verified Complaint, on the grounds that the pleadings lack sufficient identifying information to permit this defendant to plead otherwise.

4. Denies each and every allegation contained in Paragraphs “8”, “9”, “10”, “12”, “13”, and “15” of the Amended Verified Complaint.

5. Denies each and every allegation contained in Paragraphs “11” and “14” of the Amended Verified Complaint, and respectfully refers all questions of law to the Court.

AS AND FOR A FIRST SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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6. The accident complained of was caused in whole or in part by the culpable conduct attributable to the plaintiff, including comparative fault and/or assumption of risk.

7. Plaintiff should be barred from recovery by reason of the fact that the subject accident was entirely the result of the culpable conduct and/or assumption of risk on the part of the plaintiff, or, in the event that plaintiff is entitled to recover, the amount of damages otherwise should be diminished in the proportion to which the culpable conduct and/or assumption of risk attributable to plaintiff bears to the culpable conduct which caused the damages.

AS AND FOR A SECOND SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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8. Upon information and belief, any damages sustained by plaintiff, as alleged in the Amended Verified Complaint, were caused by parties other than NILT.

AS AND FOR A THIRD SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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9. Any amount that may be awarded to plaintiff as against NILT must be reduced by the amount received from or indemnified by any collateral source pursuant to CPLR §4545(c).

AS AND FOR A FOURTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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10. In the event that any person or entity liable or claimed to be liable for the injury alleged in this action has been given or may hereafter be given a release or covenant not to sue, NILT will be entitled to protection under General Obligation Law §15-108 and the corresponding reduction of any damages which may be determined to be due against NILT.

AS AND FOR A FIFTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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11. Upon information and belief, plaintiff either failed to use, failed to use properly, or misused the available seat belts or other applicable safety devices, as a result of which plaintiff's injuries were either sustained and/or aggravated.

AS AND FOR A SIXTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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12. As against NILT, this action is barred by federal preemption pursuant to 49 U.S.C. § 30106.

AS AND FOR A SEVENTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

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13. Plaintiff did not sustain a serious injury as defined by §5102(d) of the Insurance Law of the State of New York.



AS AND FOR A EIGHTH SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE

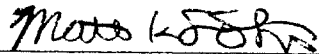
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14. That the liability of the answering defendant, if any, is limited to the percentage of culpability found against them by virtue of the fault of the other parties (both named and unnamed) and in accordance with the laws of the State of New York.

WHEREFORE, defendant hereby demands judgment dismissing the Amended Verified Complaint herein, together with the costs and disbursements of this action, including attorneys' fees, and for such other, further and different relief as this Court may deem just and proper.

Dated: New York, New York  
November 1, 2007

LONDON FISCHER LLP

By:   
Matthew K. Finkelstein  
Attorneys for Defendant  
NILT, INC., sued incorrectly  
herein as NILT, INC. a/k/a  
NISSAN INFINITI LT.  
59 Maiden Lane  
New York, New York 10038  
(212) 972-1000

To: Richard A. Kerner, Esq.  
Attorney for Plaintiff  
YVETTE FAULKNER  
74 Trinity Place  
New York, New York 10006  
(212) 964-1098

JEAN PIERRE JUDES  
Defendant Pro Se  
117 Maple Avenue  
Stamford, Connecticut 06902

ATTORNEY'S VERIFICATION

MATTHEW K. FINKELSTEIN, being an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true, under the penalties of perjury:

1. Affirmant is an associate of the law firm LONDON FISCHER LLP, attorneys of record for Defendant, NILT in the within action, and is fully familiar with the facts and circumstances set forth herein.

2. Affirmant has read the foregoing Verified Answer, knows the contents thereof, and the same is true to affirmant's own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters affirmant believes them to be true.

3. Affirmant further states that the reason this verification is made by the undersigned and not by the NILT is because NILT's principal place of business is not in the County where affirmant maintains his office.

4. The grounds of affirmant's belief as to all matters not stated to be upon affirmant's knowledge are as follows: information furnished by NILT and counsel's file.

Dated: New York, New York  
November 1, 2007



MATTHEW K. FINKELSTEIN



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

\_\_\_\_\_  
YVETTE FAULKNER,

Plaintiff,

-against-

JEAN PIERRE JUDES, a/k/a JUDE JEAN-  
PIERRE, and NILT, INC., a/k/a NISSAN  
INFINITI LT,

Defendants.  
\_\_\_\_\_

**AMENDED VERIFIED ANSWER TO  
AMENDED VERIFIED COMPLAINT  
Index No. 15704/07**

The defendants, JEAN PIERRE JUDES, a/k/a JUDE JEAN-PIERRE by the LAW  
OFFICE OF MARY A. BJORK, his attorney, as and for defendant's Answer to the  
Amended Verified Complaint herein, alleges as follows:

FIRST: Denies any knowledge or information sufficient to form a belief as to the  
allegations contained in paragraphs designated as 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14  
and 15 of the Amended Verified Complaint herein.

SECOND: Denies each and every allegation contained in paragraphs  
designated as 9 and 10 of the Amended Verified Complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE  
THIS ANSWERING DEFENDANT ALLEGES:

That the Court lacks jurisdiction of the person of the defendant, JEAN  
PIERRE JUDES, a/k/a JUDE JEAN-PIERRE.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE  
THIS ANSWERING DEFENDANT ALLEGES:

Any damages sustained by the Plaintiff were caused by the culpable conduct of the Plaintiff, including contributory negligence or assumption of risk, and not by the culpable conduct or negligence of these answering Defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE  
THIS ANSWERING DEFENDANT ALLEGES:

Upon information and belief, Plaintiff failed to use or misused seat belts, and thereby contributed to the alleged injuries.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE  
THIS ANSWERING DEFENDANT ALLEGES:

That, upon information and belief, plaintiffs' economic loss, if any, as specified in Section 4545 of the CPLR was replaced or indemnified in whole or in part from collateral sources and defendants are entitled to have the Court consider same in determining such special damages, as provided in Section 4545 of the CPLR.

WHEREFORE, this answering defendant demands judgment dismissing the Amended Verified Complaint herein with costs.

DATED: Yonkers, NY  
December 3, 2007

Yours, etc.,

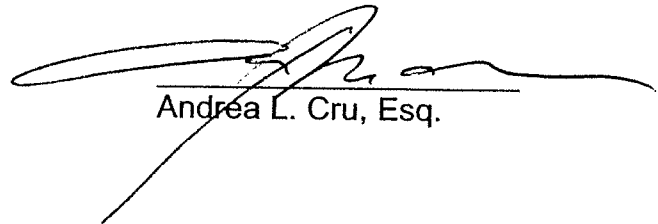
LAW OFFICE OF MARY A. BJORK  
Attorney for Defendants  
JEAN PIERRE JUDES, a/k/a JUDE JEAN-  
PIERRE  
3 Executive Boulevard, 3rd Floor  
Yonkers, NY 10701  
Telephone: 914-966-5058  
Our File No. 3965860532.1-

### ATTORNEY VERIFICATION

Andrea L. Cru, Esq., an attorney admitted to practice in the courts of this State, being associated with the attorneys for the defendant in the within-entitled action, affirms under the penalty of perjury and pursuant to CPLR §2106, that she has read the foregoing Answer and knows the contents thereof and the same is true to the knowledge of your affirmant, except as to the matters herein stated to be alleged upon information and belief, and that as to those matters, she believes them to be true.

Affirmant further states that the reason why these papers are not being verified by the defendant is that said defendant, upon information and belief, does not reside within the county wherein affirmant has her office. That the grounds of affirmant's belief as to all matters not therein stated to be alleged upon her knowledge are investigations and information received by affirmant in the course of her duties as an attorney for the said defendant.

DATED: Yonkers, New York  
December 3, 2007



Andrea L. Cru, Esq.



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
YVETTE FAULKNER,

Index No.: 15704/07

Plaintiff,

-against-

DEMAND PURSUANT  
TO CPLR § 3017 (c)

JEAN PIERRE JUDES, a/k/a JUDE JEAN-  
PIERRE and NILT, INC., a/k/a NISSAN  
INFINITI LT.,

Defendants.  
-----X

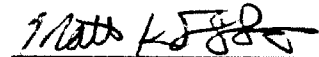
C O U N S E L :

Defendant NILT, INC., sued incorrectly herein as "NILT, INC. a/k/a NISSAN INFINITI LT." ("NILT") through its undersigned counsel, hereby demands that within fifteen (15) days of this request, plaintiff provide a supplemental demand setting forth the total damages to which the plaintiff deems himself entitled to recover for personal injuries.

Dated: New York, New York  
November 1, 2007

LONDON FISCHER LLP

By:



Matthew K. Finkelstein

Attorneys for Defendant

NILT, INC., sued incorrectly herein as  
NILT, INC. a/k/a NISSAN INFINITI LT.

59 Maiden Lane

New York, New York 10038

(212) 972-1000

To: Richard A. Kerner, Esq.  
Attorney for Plaintiff  
YVETTE FAULKNER  
74 Trinity Place  
New York, New York 10006  
(212) 964-1098



JEAN PIERRE JUDES  
Defendant Pro Se  
117 Maple Avenue  
Stamford, Connecticut 06902

K:\119\178\Pleadings\3017 demand.doc



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
YVETTE FAULKNER,

Plaintiff,

-against-

JEAN PIERRE JUDES, a/k/a JUDE  
JEAN-PIERRE, and NILT, INC., a/k/a  
NISSAN INFINITY LT,

Defendants.  
-----X

**RESPONSE TO  
SUPPLEMENTAL DEMAND  
FOR RELIEF**

Index No.: 15704/2007

**COUNSELORS:**

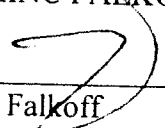
**PLEASE TAKE NOTICE**, that pursuant to CPLR § 3017 (c) and in response to the defendants supplemental demand for relief setting forth the total damages to which the pleader deems himself entitled sets forth as follows:

As a result of the complained of accident, plaintiff has been damaged in the sum of FIVE MILLION DOLLARS (\$5,000,000.00).

DATED: NEW YORK, NEW YORK  
January 30, 2008

Yours, etc., 1

ROSENBERG MINC FALKOFF & WOLFF LLP

By:   
\_\_\_\_\_  
Steven C. Falkoff

Attorneys for Plaintiff  
122 East 42<sup>nd</sup> Street - Suite 3800  
New York, NY 10168  
212-697-9280  
Our File No. 28695

TO:

**LONDON FISHER LLP**

59 Maiden Lane

New York, NY 10038

(212) 972-1000

*Attorneys for Defendant(s)*

***NILT, INC. a/k/a NISSAN INFINITY LT.***

**LAW OFFICE OF MARY AUDI BJORK**

3 Executive Boulevard

3<sup>rd</sup> Floor

Yonkers, NY 10701

(914) 966-5000

*Attorneys for Defendant(s)*

***JEAN PIERRE JUDES***



Calendar # \_\_\_\_\_  
325 (d)

## PRELIMINARY CONFERENCE ORDER

- against -

HON. Almon Tarver

## Preliminary Conference Part

Index Number 15724/2002

Conference Date JAN 12 1997

**APPEARANCES :**

Plaintiff: Yvette Tulliver

Firm: ROSE HILL CO. 10105 10105 10105

By Attorney: JOHN D. WOLF Phone: 26 97 24

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

Defendant 1: JEAN BILLET

Form: LAWRENCE, JEFFREY A.

By Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

Defendant 2: JACO + MILT INC 1/1/14 KING

Firm: Lowy's Furniture Co.

By Attorney: Matthew A. Papp Phone: (424) 371-1111

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

Defendant 3: \_\_\_\_\_

Firm: \_\_\_\_\_

By Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_  
Carrier: \_\_\_\_\_

Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

☐ To be furnished within 30 days.

☐ 1. Not submitted: Bill of Particulars to be served by \_\_\_\_\_

Served: ☐ 2(a). Satisfactory ☐ 2(b). Unsatisfactory

☐3. Supplemental bill of particulars to be served

74. Bill of particulars for affirmative defenses to be served

10/1/2020 500/20

Handwritten: Handwritten: Handwritten:

1. Demand for a Bill is to be made in -  
Furnished (Exempt:

2. Medical reports or authorizations for records to be maintained

53. Hospital authorizations to be served

1. Twelve months to be served within 30 days

the administrative system of the

No. 22. 1. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845.

☒ 1(a). Held ☐ 1(b). Waived

(c). Examination of FOIA  
 To be held

Defendant to design and build a new house for plaintiff

2(a) Physician's report furnished

2(b). Copy of physician's report to be furnished to \_\_\_\_\_

(1) Copy of physician's report to be furnished to plaintiff within 115 days of filing of suit.

## PRELIMINARY CONFERENCE ORDER

Page 2 of 2

V EXAMINATION  
BEFORE TRIAL:

- ☐ 1. ☐ Plaintiff ☐ Defendants ☒ All parties
- ☒ 2. To be held at March 2008  
Date: April 30 Time: 11:00 AM
- ☐ 3. Held (Except: NIC) ☐ Waived

## VI OTHER DISCLOSURE:

- ☐ 1. None
- ☒ 2. All parties to exchange names and addresses of all witnesses, opposing parties' statements, and photographs. If none, an affirmation to that effect shall be exchanged.
- ☒ 3. Authorizations for plaintiff's employment records (IRS) including W-2 for period 2004 to 2007

- ☒ 4. Defendant's report to Plaintiff's attorney regarding the discovery of the Plaintiff's employment records through the IRS.
- ☒ 5. To be completed within 45 days

## VII IMPLAIDER ACTIONS:

- ☐ 1(a). None
- ☒ 1(b). To be commenced 60 days after all EBT's. 30

VIII DESIGNATED FOR  
TRANSFER:

- ☐ 1(a). CPLR 325 (c)
- ☐ 1(b). CPLR 325 (d)

IX ADDITIONAL  
DIRECTIVES:

- ☐ See attached page for additional directives

## X ALL PARTIES:

Are directed to complete discovery on or before \_\_\_\_\_  
and appear for a compliance conference on 7/30/08

Any statutory stays of disclosure due the pendency of motions pursuant to CPLR 3211, 3212 and 3213 are vacated.

Counsel will be required to justify, at the Compliance Conference, failure to adhere to the discovery schedule set forth herein.

In the event of non-compliance, costs or other sanctions may be imposed.

This constitutes the decision and order of this court.

Dated: 11/1/07Enter: 151

J.S.C.

Parties must adhere to all dates contained herein relating to the completion of items in this order. Counsel may not enter into any adjournments without further order of this court.